



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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PUBLIC MEETING MINUTES:	COUNCIL ON REAL ESTATE APPRAISERS
MEETING DATE AND TIME:	Tuesday, July 19, 2011 at 9:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , 2nd floor of the Cannon Building
MINUTES APPROVED:	September 20, 2011

Members Present

William Diveley, Chair, Professional Member
Gary V. Parker, Vice Chair, Professional Member
Stephen Huston, Professional Member
Brad Levering, Professional Member
Richard Wheeler, Public Member
Frank Long, Public Member
Frank Smith, Public Member
Yvonne Rickards, Public Banking Member
Ronald Mandato, Professional Member

Division Staff/Deputy Attorney General

Patricia Davis-Oliva, Deputy Attorney General
Nicole Williams, Administrative Specialist II
Kay Warren, Division Deputy Director

Members Absent

None

Others Present

Vera Stitze, Court Reporter
Leslie Persans
Steve Sachs
Cathy Berchock
J. Wesley Mast
Sheila Ross
Leslie Vasquez

Georgianna Trietley
Karen Denton
Cynthia Johnson

Call to Order

Mr. Diveley called the meeting to order at 9:34 a.m.

Disciplinary Hearing: Kelly Leaberry

This hearing was continued until the September meeting as Ms. Leaberry's counsel requested a continuance based on medical issues and counsel represented that Ms. Leaberry is not working in Delaware at this time. The State did not object to the continuance. Mr. Diveley and the Council granted this continuance but stated for the record that this hearing will go forth at the September meeting. The court reporter was not yet in attendance

Review and Approval of Minutes

The Council reviewed the minutes from the May and June meeting. Mr. Wheeler stated that there were a couple of corrections to the June minutes. Mr. Wheeler then made a motion to approve the May minutes as submitted and to approve the June minutes as amended, seconded by Mr. Parker. Motion carried unanimously.

Unfinished Business

Appraisal Experience Log Matrix

Mr. Levering stated that the Council was to review the appraisal matrix log as recommended from the May meeting to discuss at a later time. The Council took a few minutes to review the log information. Mr. Levering inquired if the Council objected to the log developed by the Appraisal Qualifications Board as it shows consumers exactly how the appraisal was completed by the trainee and the trainee's supervisor. The Council opened the floor for discussion on adopting the appraisal experience log. Mr. Mandato inquired if the current log would have to be expanded. Mr. Levering responded that the AQB log would be adopted just as it is. Mr. Parker stated that he believes the current log would have to be expanded. Mr. Diveley stated that the current log only provides room for the hours. Mr. Mandato stated that currently the log does not allow for the extra explanation of the information on the log. Mr. Levering added that the AQB log will provide the scope. Mr. Parker stated that the AQB log will offer experience verification. Mr. Diveley added that this information on the log detailing what the trainee and the supervisor do during the appraisal process is already on the appraisal and would be redundant work which could cause supervisors to be reluctant to take on trainees. Mr. Levering stated that he did not agree. Mr. Mandato added that it is in the certification that the supervising appraiser reviews the documentation. Mr. Levering further added that this matrix log by the AQB meets their guidelines. Mr. Parker stated that there may be some confusion between the two contexts. Mr. Parker stated that the first context is the experience verification logs for applicants for licensure. Mr. Parker further stated that the AQB's matrix would be perfect for appraisal experience verification for licensure but for a log included within an appraisal report that specifies for USPAP for what the supervisor did verses what the trainee did is a different issue and is more of a standards issue and cannot see adding a log with several properties in one appraisal report that goes to a client. The State of Pennsylvania has one page sheet entitled trainee scope of work that goes in with the

appraisal report and complies with USPAP that details scope of practice. The trainee checks of what he or she did and what the supervisor did and both the trainee and the supervisor sign. Mr. Levering stated that he wants to be sure that there is clear delineation between what the supervisor and the trainee do during the appraisal process as in the past there had been confusion and conflict as to what the trainee and supervisor did. Mr. Levering agreed with having a checklist and added that it is supposed to be in the appraisal and in the past it had not been in the appraisal as there had been minimal information in the appraisal about what was done during the appraisal process. Mr. Parker advised that one is the AQB matrix for experience and the other is the scope of work that is stated in the appraisal that has to comply with USPAP is another issue that should not be addressed under the experience log, but rather with the appraisal report and should be brought up under new business for discussion. Mr. Parker additionally added that specifically the checklist form that Pennsylvania uses is a good tool and that he does not see anything wrong with the AQB matrix, which is taking essentially the current log used and expanding it. Mr. Levering made a motion to adopt the AQB matrix as the new experience log, seconded by Mr. Parker. Motion carried unanimously. Ms. Williams will work with the system administrator to devise a new appraisal experience log and possibly provide a draft for the September meeting for review and approval.

Requirement of Criminal Background Checks for Licensure

Mr. Levering stated that the role of the Council is to protect the public and proposed to require that all appraiser applicants obtain a criminal background check for licensure. He stated that the AQB also suggested that the requirement for background checks for new licensees become a new standard for licensure. Mr. Levering further added that the licensee should have a criminal background check so that they are not just stating on the application that they have no criminal history. He proposed for the Council to adopt the requirement of having a criminal background check prior to licensure. The Council opened the floor for discussion. Mr. Wheeler did not oppose this change and stated that as a consumer he would like to see that the applicant has no criminal background now or in the applicant's past. Mr. Parker asked how it worked if a licensee submitted a clear background check and then a year and half later the person is convicted of a crime, is notification sent to DPR. Ms. Davis-Oliva responded that right now only the Medical Board receives notification. During the renewal process all the other boards are relying on the renewal attestation. Mr. Parker inquired as to the length of time it would take to get this requirement put into place, could it be accomplished by 2013. Ms. Davis-Oliva stated that it would require a statute change and it could be completed by 2013. The bill would be submitted to DPR and then DPR would determine if the bill should be presented. Mr. Huston inquired if this requirement is becoming a trend and inquired what other boards have the requirement in place so far. Ms. Davis-Oliva replied the Medical Board currently has this in place and most of the healthcare professions such as nursing, nursing home administrators and during this past session the Dental Board just introduced this requirement as well. It is very limited on the other Board that have this requirement in place. Ms. Warren stated that the health care professions require criminal background checks such as dentists, psychologists, chemical dependency professionals, marriage and family therapists, social workers, pharmacy, nursing home administrators, medical, and nursing. She further added that it appears to be a trend each time a board goes through sunset review as it is one thing that is added although the Real Estate Commission did not add

it. Ms. Warren state that it would require a statute change as Ms. Davis-Oliva had stated and that there is specific language that has to be put in the law to get a state and federal check. Mr. Parker stated that this requirement has become a trend in NJ as well as approximately ten to twelve years ago NJ started this requirement and he does not see it as a big requirement as it is not very costly to the applicants. Mr. Wheeler advised that there are two different types of checks. Mr. Mandato recommended to have a CBC as a requirement for licensure and asked for clarification as to when the requirement is needed, is it for new applications, reciprocity, temporary permits and upgrades, but not present appraisers? Mr. Levering advised that it would be necessary for all applicants for initial application but not the current licensees until they have to renew in 2013. Additionally for licensees upgrading that have not had a criminal background check will need to have one completed and will need to be handled differently. Mr. Huston stated that he is not opposed to this requirement but if going to implement this there needs to be a start date which states that every new applicant from that point forward has to have a background check. Mr. Parker stated that he does not believe it can be segregated but rather needs apply to every applicant. His concern is with temporary practice permits as they are time sensitive and the appraisal assignment is over a short period of time. Mr. Huston inquired about the two different types of background checks. Mr. Wheeler advised that the \$69.00 check is the full background check and the \$45.00 check is for the State only. Ms. Davis-Oliva stated that the State Bureau of Identification only picks up the State offenses, the federal check picks up any arrests in any state. Mr. Levering stated that the requirement should be for the full federal background check. Mr. Levering stated that he sees this requirement as becoming more of a trend in many trades/professions. He wants to see this requirement for temporary permits especially as they are working on a commercial level. Ms. Warren advised that the complete full background check takes approximately four to six weeks to come back. Mr. Levering made a motion to require a full background on all applicants seeking to do appraisals in the State of Delaware at time of application and to include the background check language with the current legislation submitted. Mr. Huston suggested tabling this matter until the next meeting in order to obtain more clarity on the difference between a full and limited background check. Mr. Parker advised that he also is not comfortable with the requirement of a background check for temporary permits. Ms. Davis-Oliva will find out what the difference is between a limited and a full background check. Ms. Williams will check with PA and NJ to see if they require CBCs. Mr. Levering made a motion to table this matter until next meeting, seconded by Mr. Parker. Motion carried unanimously. Ms. Williams will add this topic to the agenda for September for additional discussion.

Schedule Hearing Date for Complaint 19-03-10: Ted Ganderton

The Council decided to have the hearing for 19-03-10 scheduled for the September meeting.

Mr. Levering inquired about the continuance process as to how many times a person can request a continuance. Ms. Davis-Oliva replied that normally each sided is granted at least one postponement as a matter of course. In this particular case Ms. Leaberry's attorney represented that she was ill and not working and the State had no objection to granting the continuance. Ms. Davis-Oliva had spoken directly with Mr. Diveley about the continuance request and Mr. Diveley was adamant about not granting the continuance however Ms. Davis-Oliva recommended that the

continuance be granted to protect Ms. Leaberry's her due process rights. Ms. Davis-Oliva stated that it was not in the Council's best interest to force Ms. Leaberry to come in given her circumstances and conveyed to Ms. Leaberry and her attorney that the Chair reluctantly granted the continuance but that the hearing will go forth in September no matter what. Mr. Levering inquired what will happen if she does not appear for the hearing date in September. Ms. Davis-Oliva stated that since she has an attorney she is not likely to show up, but that hearing will go forth. Mr. Huston made a motion to schedule Mr. Ganderton's hearing for the September meeting, seconded by Mr. Levering. Motion carried unanimously.

The Council moved to the Rules and Regulations Hearing, agenda item 3.0.

Hearing: Rules and Regulations

The hearing went on record at 10:09 a.m. Ms. Davis-Oliva stated for the record the purpose of today's hearing for the Council to consider adoption of the proposed amendments of the rules and regulations which create a new regulation, Regulation 10, regulating assessor practice in the State of Delaware and if approved will become part of the Council's final rules and regulations. Ms. Davis-Oliva entered for the record the affidavits of the newspaper publication from the News Journal and Delaware State News as exhibits one and two.

Ms. Davis-Oliva confirmed with Ms. Williams for the record that the Division did not receive any written public comment. Ms. Davis-Oliva turned the matter over to the Chair for Council introductions. The Council made their introductions.

The hearing opened the floor for public comments. Ms. Georgianna Trietley addressed the Council. She provided a brief background of herself and her position to the assessor regulations. Ms. Trietley stated for the record a letter submitted to the Council addressed to Nicole Williams, Administrative Specialist, from the Delaware Association of Assessing Officers to present their position. Ms. Trietley further stated how an assessment is done via a computer where numerical data is entered and the computer then provides an assessment value based on the data entered for the Council's understanding. Ms. Trietley read comments from the letter specifically stating that the request from the DAAO is to postpone or table the proposed assessor regulations until a program of reassessment to current market value for all parcels in their current jurisdiction is implemented in the Delaware counties. Ms. Trietley read briefly from the memo submitted by Lou Cox of the Levy Court leadership stating their position that the Council wait until a reassessment program of current market value and can comply with the Uniform Standards of Professional Appraisal Practice (USPAP) then at that time the Council will have something to regulate. Mr. Wheeler requested clarification from Ms. Trietley as to what data is put into the computer regarding the condition of what is being assessed. Ms. Trietley clarified that the data is based on quality, i.e. kitchen counters made of Formica versus Granite and all those types of factors are in the assessment program itself. There was further discussion between Ms. Trietley and the Council. Mr. Parker requested Ms. Trietley to explain to the Council for public record the difference between a retrospective evaluation and a current evaluation. Ms. Davis-Oliva entered for the record the July 6, 2010 letter from the DAAO as Board exhibit 3, a memo from Lou Cox of the Levy Court Leadership to the Council dated October 13,

2010 as Board exhibit 4, and a memo dated September 1, 2010 from Eddy Parker, Director of Assessments, to David Baker, County Administrator, as Board exhibit 5.

Ms. Cynthia Johnson an appraiser for Kent County Levy addressed the Council and inquired if the Council would define for the record Regulation 10 so the public would have the context for the meeting. Ms. Davis-Oliva advised that the regulations were available in the publication and notification on how to obtain a copy of the regulations were available. Ms. Williams advised that additional copies were made for the public on the table as they walked in. Ms. Johnson was provided a copy of the proposed regulations. There was no further public comment.

Mr. Parker made a motion to close the hearings for deliberations, seconded by Mr. Mandato. Motion unanimously carried. The Council went off the record at 10:25 a.m.

The Council went back on the record at 10:43 a.m. Based on the public comment presented before the Council, Mr. Parker made a motion to adopt Regulation 10 with that amendment to rule 10.7.3.1 by striking the language regarding the paper renewal, seconded by Mr. Levering. Motion carried unanimously. The hearing closed.

New Business

New Complaint

Complaint 19-07-11 of Kent County was assigned to Mr. Diveley.

Ratification of Issued Licenses

Mr. Parker made a motion to ratify the listing of licenses issued to Wayne Mouser, Michelle Goddard, Daniel Schneider, and Peter Lane, seconded by Mr. Huston. Motion carried unanimously.

Ratification of Approved Continuing Education Activities

Mr. Parker made a motion to ratify the approved education activities for Allterra Group, Appraisal Institute, IRWA Chapter 56, Loomis Appraisal School, McKissock, and NAIFA, seconded by Mr. Mandato. Motion carried unanimously.

Review of Temp Applications for discussion only

Mr. Diveley read the list of names approved for temporary permits. There were no comments or discussion by the Council.

Proposal for Photo ID of Licensed Appraiser at Time of Home Inspection

Mr. Huston stated that he is opposed to this proposal. He stated that providing your DE State ID to a consumer opens up liability for identity fraud and that with the new requirement for a criminal background check would be redundant. Mr. Parker concurred as well did Mr. Smith and Mr. Levering. There was no further discussion.

Other Business before the Council (for discussion only)

Mr. Parker advised to add the one page trainee check list to the appraisal experience log for discussion under new business for the next meeting. Mr. Levering reminded the Council to consider who will attend the October AARO conference in Washington D.C.

Mr. Diveley advised that he is willing to attend that conference so long as his calendar is open for the dates in October.

Public Comment

Ms. Karen Denton from the Kent County Levy Court Assessment office addressed the Council. She advised that she is a licensed real estate appraiser trainee in the State of Maryland. Ms. Denton stated that it is her understanding that assessors are not complying with USPAP in regards to assessments and she stated again that an assessment is not an appraisal. The Council thanked Ms. Denton for her comments. There was no further public comment.

Next Meeting

The next meeting is scheduled for September 20, 2011 at 9:30 a.m. in Conference Room A second floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

Adjournment

Mr. Diveley made a motion, seconded by Mr. Huston to adjourn the meeting. There being no further business before the Council, the meeting adjourned at 10:52 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Nicole M. Williams". The signature is written in a cursive, flowing style.

Nicole M. Williams
Administrative Specialist II